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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 201/2015

STATE (GOVT OF NCT OF DELHI)

..... Petitioner

Through: Mr. Rajat Katyal, APP along with SI  
Om Prakash, PS-Badarpur, for the  
State.

versus

AMIT KUMAR & ANR

..... Respondents

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE VIPIN SANGHI**

**ORDER**  
**07.03.2017**

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The State has preferred the present leave petition to seek leave to appeal against the judgment dated 06.08.2014 passed by the learned ASJ-06, South East, Saket, New Delhi in Sessions Case No.52/2013, whereby the respondents have been acquitted in the said case under Sections 394/ 397/ 34 IPC.

The submission of Mr. Katyal is that the Trial Court has disbelieved the testimony of PW-1/ victim only on account of the fact that he earlier stated that he did not have any enmity with the accused Azim Khan, whereas his father and brother deposed otherwise. Mr. Katyal submits that so far as

the incident involving the stabbing and beating of the victim is concerned, the Trial Court has not gone into the aspect at all.

I have perused the impugned judgment. The impugned judgment brings out several contradictions in the statement of PW-1/ victim. It also highlights the contradictions in the statement of PW-5 the father of the victim Abdul Gaffar and PW-8 the I.O.

The statement of PW-1 had been read to the Court. During his examination-in-chief, he deposed that when he was given beatings by the accused and stabbed, he fell down on the ground and he lost his senses having been beaten by them. He stated that he re-gained the senses at the Trauma Centre at AIIMS, where he found himself with his father. However, in his cross-examination, he, *inter alia*, stated that:

*“Said incident took place at about 9.45 pm. Someone from the public called police control room at no. 100 informing the incident... .. Police reached at spot after about half an hour. I do not remember now whether any of my relatives had come at spot before police reached there. Our house is at a distance of about 100 yards from spot. I remained at spot till police arrived there and did not go to my house. I cannot tell in how much time I reached hospital from spot. I was taken to hospital by a PCR van. ... .. Accused persons fled away from spot after about 10-15 minutes of stabbing me. Public persons gathered at spot after the incident. None from them was known to me. Vol. It was night hour. ... ..”*

The aforesaid clearly bring out serious contradictions in the statement of PW-1/victim. Pertinently, no independent eye-witnesses were produced by the prosecution even though it was claimed that the incident took place at about 09:45 p.m. on a public street and other people had gathered at the spot.

Having perused the impugned judgment, I am of the view that the view taken by the Trial Court is a plausible view and the same does not call for any interference.

Dismissed.

**VIPIN SANGHI, J**

**MARCH 07, 2017**  
*B.S. Rohella*